NSW GOVERNMENT | Communities & Justice

Permanency Support Program (PSP) Critical Events Policy

Children that experience a critical event in statutory OOHC in case responsibility of a PSP service provider

Document approval

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This policy is reviewed bi-annually or as practice learning occurs and client outcomes become evident.

Advice and support in relation to this policy is available via the PSP mailbox – permanency.support@dcj.nsw.gov.au.

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1.0 Purpose

This policy supports PSP service providers exercising case responsibility for children in statutory out-of-home care (OOHC).

It applies when a child has experienced a critical event.

It describes rules and practice guidance that enable service providers to:

- ensure children's[1] safety, welfare and wellbeing is central to planning and implementing agency responses to critical events
- identify critical events and comply with reporting requirements
- identify practice and systemic improvements to prevent future critical events.

2.0 Definitions

The table below is a list of terms, keywords and/or abbreviations used throughout this document.

Term	Definition
Care Act, the	NSW Children and Young Persons (Care and Protection) Act 1998
Carer	A carer engaged by a designated agency, authorised under section 137 of the Care Act.
Case responsibility	Refers to primary case responsibility for: • providing residential care and control of the child and supervision of the child's placement • supporting carers to exercise care responsibility • making decisions about the child, including decisions about managing behaviour • achieving the child's case plan goal as soon as possible, or within two years. Also see secondary case responsibility.
Caseworker or Casework practitioner	See Practitioner
Child	A child or young person under the age of 18 years, in OOHC.
Critical Event	A critical event includes the circumstances set out in section 6.1.
DCJ	The NSW Department of Communities and Justice
DCJ principal officer	This is the principal officer of a DCJ district with overall responsibility for:

[1] Throughout this document 'child and/or young person' is shortened to 'child'; 'children and/or young people' is shortened to 'children'.

Term	Definition
	• supervising that district's arrangements for providing OOHC • responding to critical event reports by PSP service providers operating in that district (the principal officer's district). Also see PSP service providers and OOHC providers. Also see Appendix C.
Designated agency	An agency accredited by the NSW Office of Children's Guardian to provide OOHC services in NSW.
Local district	A DCJ district that is a designated agency that exercises secondary case responsibility. Also see Designated agency, PSP service provider.
MRG	Mandatory Reporter Guide
Nominated unit	A DCJ district unit, for example a Child and Family District Unit (CFDU) or community service centre (CSC), exercising secondary case responsibility for a child in the primary case responsibility of a service provider. Also see Case responsibility and Secondary case responsibility.
OCG	NSW Office of Children's Guardian
OOHC	Statutory out-of-home care
OOHC provider	A designated agency accredited to provide OOHC in NSW. Also see Designated agency, Service provider and Placement.
Other service	An agency contracted to provide any other service (excluding OOHC) on a fee-for-service basis. Also see service provider and OOHC provider.
PCMP	Permanency Case Management Policy
PLA	Program Level Agreement. Contract DCJ has with service providers to arrange and supervise OOHC and achieve children's case plan goals.
Practitioner	Includes caseworker, case manager, senior practitioner, casework manager, team leader, casework specialist, (etc). A practitioner provides casework to a child in OOHC, their carer, parents and family/kin.
Primary case responsibility	See Case responsibility
PSP	Permanency Support Program. The PSP provides services to vulnerable children so they can grow up in stable, secure and loving homes.
PSP Service provider or service provider	A designated agency that is contracted by DCJ to: • arrange and supervise OOHC placements • exercise case responsibility for children in OOHC • achieve children's' case plan goals.

Term	Definition
	These agencies may have previously been known as OOHC care of foster care providers. Also see Designated agency.
Regulations, the	NSW Children and Young Persons (Care and Protection) Regulation 2012
Secondary case responsibility	Secondary case responsibility, as distinct from primary case responsibility, is responsibility for carrying out the department's statutory role, including: • safety and risk assessment (SARA) & risk re-assessment • alternate assessment, to ensure a child's safety in care • exercising the residential aspect of parental responsibility on behalf of the Minister.
Service provider	See PSP service provider.
Young adult	A young adult 18 years of age or over, previously in OOHC.

3.0 Scope and application

This policy applies to:

- service providers with primary case responsibility for children in statutory OOHC
- nominated units exercising secondary case responsibility for children in case responsibility of a service provider.

This policy also applies when:

- a service provider sub-contracts an OOHC provider (without case responsibility) to arrange and supervise the child's placement
- a child is accommodated in an Alternative Care Arrangement, Interim Care Model, out-of-guidelines placement or other like model of care.

This policy does not apply to:

- children in OOHC when DCJ has primary case responsibility
- the case management or provision of (after-care) services to young people aged 18 years or over who have left OOHC.

4.0 Roles and responsibilities

4.1 DCJ role

Assess child protection reports

As agency exercising statutory responsibility for child protection, DCJ conducts assessment of child protection reports, concerning critical events assessed by Child Protection Helpline.

DCJ conducts a joint assessment of a report about a critical event, with NSW Health and NSW Police, if it is a possibility a criminal offence has occurred. DCJ's Joint Child Protection Response (JCPR) Program liaises with the relevant nominated unit and service provider to conduct the joint assessment.

Conduct child death reviews

As agency exercising parental responsibility for children in OOHC (on behalf of the Minister), DCJ conducts a child death review when a child in OOHC dies. DCJ Child Safety and Review unit liaises with the relevant local district and/or service provider to arrange a joint review.

Contract governance

As agency commissioning the exercise of case responsibility by service providers, DCJ Commissioning and Planning responds to any critical event that impacts upon contract governance, including notification requirements and default events.

4.2 Service provider role

Service providers respond to critical events experienced by a child for whom they:

- have arranged and supervise an OOHC placement (or sub-contracted this to another OOHC provider) and
- exercises case responsibility.

Arrange and supervise placements

Service providers arrange and supervise OOHC placements:

- guided by the NSW Child Safe Standards for Permanent Care issued by the NSW Office of Children's Guardian
- in accordance with statutory requirements set out in the Care Act and Regulations
- in compliance with the contractual requirements of their PSP PLA.

Case responsibility

Service providers exercise case responsibility for children in OOHC:

- consistent with their statutory duties as mandatory reporters
- in accordance with the requirements set out in the PCMP
- in compliance with the contractual requirements of their PLA.

5.0 Legislation and Policy Framework

5.1 Legal framework

- Sections 39A(3), 138, 149D(b), 150(4), 157(3), 157(4), 245CA of the Care Act
- Clauses 45-68 of the Regulations
- Sections 9-70, 20, 83, 174, 175, 180; Schedule 1, Clause 5 of the NSW Children's Guardian Act 2019
- Sections 43B, 66EB, 316A of the NSW Crimes Act 1900
- Section 35, Schedule 1, clause 2 of the NSW Child Protection (Working with Children) Act 2012.

5.2 Policy framework

Designated agencies are required to have internal policies and procedures for the effective management of critical events experienced by children in OOHC. This requirement is set out in:

- the NSW Children's Guardian's Child Safe resources for OOHC & Adoption, including the Accreditation Self-assessment tool, the Evidence Index and Behaviour Support/Management Guidance tool
- all PLAs issued by DCJ that put in place arrangements for provision of OOHC.

The standards against which designated agencies are assessed are the NSW Child Safe Standards for Permanent Care, including:

- Standard 2: Providing a Positive Care Environment – Critical incidents occurring within the care environment are reported, recorded and managed within the agency's required timeframes and in accordance with mandated responsibilities.
- Standard 3: Child Protection and Child Safety – All reportable allegations are reported, recorded and managed within the required timeframes.
- Standard 23: Strategic planning, evaluation – Strategic planning, evaluation and continuous improvement systems are in place…to improve outcomes for children and young people.

DCJ practitioners

DCJ practitioners exercising secondary case responsibility apply this policy in conjunction with the PCMP Rules and Practice Guidance, the Aboriginal Case Management Policy (ACMP) and the PSP Away from Placement policy.

Practitioners also apply this policy in conjunction with the NSW Practice Framework, Practice Framework Standards and relevant Casework Practice mandates and practice advice topics.

Relevant practice mandates include the Critical events[2], Missing children and young people, Administrative parental decisions for children in care and Responding to allegations about DCJ carers, employees and employees of other agencies practice mandates.

Relevant practice advice topics include Understanding trauma and resistance, Collaboration and Sharing Risk.

Practitioners assessing child protection reports associated with a critical event apply this policy in conjunction with Casework Practice mandates and practice advice topics (available to DCJ employees), including the Assessing Safety and Risk, Safety in Care, Reporting allegations of criminal offences to Police, Identifying and recording POI and PCH and Supporting children and young people who are victims of crime practice mandates.

Further advice is available from the Child Safety and Review unit, including the Serious Case Review and Reportable Conduct teams within the Office of the Senior Practitioner (OSP).

Service provider practitioners

Service provider practitioners apply this policy in conjunction with:

- the internal policies of their agency
- Safety in Care information and resources for service providers
- the PSP Program Level Agreement (PLA) and other relevant contractual arrangements
- the PCMP Rules and Practice Guidance
- the PSP Away from Placement policy
- the DCJ Caring for Children guide for foster, relative and kinship carers
- the Aboriginal Case Management Policy (ACMP).

[2] This mandate is under review in 2022.

6.0 Policy Statement

6.1 What is a critical event?

A critical event in OOHC occurs in the following circumstances:

1. a serious injury or death of a child
2. death by suicide, drug overdose or inflicted or serious injuries of a child, known to DCJ or a service provider

   Also see: Procedure: serious injury or death.
3. a death or serious injury to an authorised carer providing care to a child
4. a child is missing, defined as :
   - a child who is suspected to have been abducted or there are serious concerns for their immediate safety or
   - a child whose whereabouts remains unknown for a period of over five days and contact has not been established or media attention is likely

   Also see: Procedure: missing child in OOHC.
5. a female child becomes pregnant or requests a termination of pregnancy[3]
6. exposure of a child to:
   - a confirmed or suspected registrable person (section 3A, Child Protection (Offenders Registration) Act 2000)4
   - a person listed on the Child Protection Register in NSW (section 19 of the same Act)
7. a child intends or is planning to get married
8. a child is alleged to have committed a serious assault or serious criminal offence[5]
9. a planned end of life event regarding a child
10. a reportable allegation or conviction concerning an employee[6] of a designated agency

    Also see: Responding to reportable allegations.
11. a notifiable finding made by a designated agency in relation to any person engaged in child related work, whether or not employed by the provider

    Also see: Responding to notifiable findings.
12. cancellation or suspension of a designated agency's accreditation
13. any other event has occurred (affecting a child in OOHC) that results in, or is

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[3] A circumstance wherein a male child (in OOHC) becomes a putative father requires an appropriate casework response. However this circumstance does not constitute a critical event.

[4] Explanations in relation to legislation in this document are for readability only and in all cases the relevant sections of the legislation (as linked) are to be read in full and legal advice obtained where required.

[5] For the purposes of this policy, a serious assault or serious criminal offence is a 'serious indictable offence' as defined in the NSW Crimes Act 1990 (section 4).

[6] Authorised Carers are considered employees under the Ombudsman Act 1974.

likely to result in media attention requiring a media response

14. any other event has occurred that has, or may have, an adverse impact on a designated agency
15. any serious incident or contentious issue with potential to become a matter of public interest or result in potential loss of public confidence.

6.2 Make a child protection report

A service provider immediately makes a report to the Child Protection Helpline when:

- a child has died
- a child is missing and is suspected to have been abducted or there are serious concerns for their immediate safety
- in any other circumstance, when the Mandatory Reporter Guide (MRG) outcome recommends 'Immediate Report to the Child Protection Helpline.'

6.3 Make a police report (missing children)

A service provider makes a missing person report when a child is missing and there are concerns the child has been abducted or there are serious concerns for their safety. A Service Provider regularly reviews whether there are serious concerns for a child's safety.

Make a missing person report to a NSW Police local area command (LAC). Information about the child is provided to the LAC with:

- written correspondence signed by a manager with decision making delegation
- a copy of the child's court order and (current) photograph.

For more information, see Provide information to police.

6.4 Report a critical event to a DCJ principal officer

A service provider immediately reports a critical event to the relevant DCJ principal officer. This occurs whether or not service provider has made a child protection report and/or a police report.

A DCJ principal officer escalates a critical event to Deputy Secretary, Secretary or the Minister, in accordance with DCJ policy.

Also see: Provide information to police.

6.5 Consider contractual requirements

Notification requirements

In addition to reporting the critical event to the DCJ principal officer, immediately provide written notice of a critical event to a DCJ contract manager, when that event is a notification requirement.

Default events

In addition to reporting the critical event to the DCJ principal officer, discuss a critical event with a DCJ contract manager, when that event is a default event. Consider what steps are required to remedy the default event.

6.6 Conduct an internal assessment

A service provider conducts an internal assessment in relation to every critical event. This may include:

- review of operational policy framework and casework practices that support:
  - provision of daily care and control of children
  - exercise of case responsibility for children
- investigation of allegations or convictions in relation to reportable conduct
- review of a carer's authorisation (when allegations are made about the carer).

An internal assessment is conducted separately from the delivery of casework to a child, their carers, parents and relative/kin. General principles include:

- review by practitioners that are:
  - able to act independently and do not have a conflict of interest
  - not involved in the event and without a relationship to persons involved.
- early engagement of casework practitioners in the review
- a workplace culture that promotes transparency and fosters learning
- decision making underpinned by shared responsibility for managing risk.

7.0 Procedures: general procedures

7.1 Respond to immediate risk

A situation of immediate risk includes circumstances when a life is in danger, there is immediate risk of significant harm, a child's behaviour will result in serious harm or serious injury to themselves or to others, a serious crime[7] is taking place, or a situation is serious and could be described by a reasonable person as an emergency.

The service provider responds to immediate risk under its control, within available operational resources and capacity.

Practitioners take reasonable action to:

- reduce, mitigate and eliminate immediate risk, based on initial and ongoing risk assessment, informed by available evidence
- seek urgent help in relation to immediate risks not under its control from police, fire, ambulance or other emergency services.
- liaise with police, fire, ambulance, the JCPR officers and other emergency services to enable effective coordination of the response.

7.2 Make a critical event report

The service provider's principal officer reports a critical event in writing to the relevant DCJ principal officer of their local district:

- Provide the DCJ principal officer with all relevant records detailing the actions of the service provider, as soon as those records are available.
- Include records regarding the conduct of safety and risk assessments, investigations or reviews and related findings.

There is no separate form to report critical events to DCJ. PSP providers report critical events (in writing), subject to any district systems and processes that have been implemented by the local DCJ district.

7.3 Make a child protection report

When a critical event results in concerns a child is at risk of significant harm[8], the service provider:

- completes the Mandatory Reporter Guide (MRG) to determine whether a report to the Child Protection Helpline is required and
- enacts the outcome or recommendation of the MRG.

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[7] For the purposes of this policy, a serious crime includes indictable or summary offences that cause immediate risk to safety or life (for example murder, types of sexual offences, types of assault, drink driving) and are likely to require a person to answer related charges in court proceedings.

[8] Section 23 of the *Children and Young Persons (Care and Protection) Act 1998*.

7.4 Prepare for an investigation

When investigation of a critical event by an external agency is likely to occur, the service provider ensures evidence is not tampered with or removed/deleted.

For example: Ensure closed-circuit television footage is protected.

Be aware evidence such as hair or fluids may not visible to the eye.

Secure records to ensure they are not altered.

Don't move items that may be relevant to the investigation.

7.5 Provide information and support

The service provider facilitates the provision of information about the critical event and support to the child, their carer, parents and family/kin.

For example: Provide appropriate information sensitively and promptly. Listen to their worries and concerns.

Plan next steps through conducting a family meeting or case conference to review the child's case plan.

Consider the need for medical, psychological or specialist services.

7.6 Manage public interest

When a critical event is likely to attract media enquiries, act to limit the public nature of the event. For example, take steps to limit release of the names and identifying information regarding the children affected[9].

7.7 Exchange information

The service provider facilitates provision of appropriate information to other agencies important to the child.

For example: Notify the child's school and school teachers, medical practitioners and specialists.

7.8 Support DCJ to conduct an Alternate Assessment

When a critical event coincides with an Alternate Assessment, the assessment is conducted within the local district, subject to local operating arrangements.

The local DCJ district will provide their Alternate Assessment documentation to the PSP provider. Refer to:

- the PSP Permanency Case Management Policy (PCMP) Rules and Practice Guidance, Alternate Assessment
- Safety in Care information and resources for PSP providers.

[9] Section 105 of the Care Act

7.9 Provide therapeutic care

The service provider provides the child with holistic, individualised, therapeutic care, guided by the NSW Therapeutic Care Framework, in order to address the impact of the event on the child their carer and family/kin.

Practitioners consider what programs and services will provide safe relationships and healing experiences that help the child recover from trauma:

- Arrange consultation with a relevant specialist clinician to plan psychological and other interventions. Where appropriate, the service provider invites the nominated unit to participate in the consultation.
- If no services are locally accessible, arrange a psychological consultation with DCJ Psychological and Specialist Services[10] through the nominated unit.
- Consider a referral to Intensive Therapeutic Transitional Care (ITTC) Outreach, through the DCJ Central Access Unit (CAU).

ITTC Outreach is available for a child who has complex needs and requires increased support. The child does not need to be in an ITC or residential placement to access these services. Services include behavioural assessment and support, developmental assessments including occupational and speech therapy, mental health, alcohol and/or drugs, education, independent living skills, carer and placement support, and risk management.

7.10 Victims Services

If a child may be a victim of a crime, the service provider:

- considers their eligibility for Victim Services support
- notifies the nominated unit of a child's possible eligibility using the Service Provider Recommendation for application to Victims Services.

provides file information to a legal practitioner allocated by DCJ Legal Services. The allocated external legal practitioner will return files by courier to the service provider upon completion of the audit.

The nominated unit:

- seeks legal advice regarding whether to make an application for financial services or recognition payment under the victims support scheme
- arranges a legal file audit and redacts all documents held by DCJ or provided by the service provider
- makes an application to Victims Services on behalf of the child.

7.11 Continuous improvement

The service provider addresses the causes of a critical event and, where appropriate, puts in place systematic improvements to their operational policy framework, to reduce, mitigate and eliminate the risk of similar events occurring in future.

[10] This link will only work for DCJ employees.

With leadership of senior managers, actions are taken to learn from a critical event. Practitioners are supported to (if applicable):

- consider the outcomes of the internal review conducted following the event
- participate in interagency or practice review, when initiated by DCJ Serious Case Review unit
- consider the Alternate Assessment and any other findings or recommendations made by DCJ
- enact contractual performance improvement plan
- consider and implement the findings and recommendations of the NSW Coroner, Ombudsman and Children's Guardian or other statutory body.

7.12 Get help and advice

Whenever service provider practitioners require guidance about how to respond to a critical event, seek advice from the DCJ principal officer or a nominated unit.

8.0 Procedures: serious injury or death

For the purposes of this policy, a child has sustained a serious injury if the injury results in emergency hospitalisation for over 48 hours; breaking of any bone; lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; injury to an internal organ; second or third degree burns, or any burns affecting more than 5 per cent of the body surface.

8.1 Provide information and support

Inform and support the parents and other people

The service provider immediately informs the parents about the serious injury or death[11] and offers them support.

Practitioners support the parents and family/kin, considering they are likely to experience shock, distress and grief. They may also express anger toward the child's caregivers or the practitioners supporting them.

Practitioners involve the parents and family/kin, in decision making about the child and provides an opportunity for them to express their views and wishes.

Ideally the provision of support is led by a practitioner with the strongest relationship with the child, carers, parents or relatives/kin. Or it may be a manager or senior practitioner with appropriate skills and expertise.

Conversations with parents and family/kin are planned. When planning a conversation:

- decide who will be involved, for example specialist practitioners or other people that have a family/kin or professional relationship with the child or parents
- consider how the conversation is best approached with sensitivity and compassion; and how the experience of grief and shock will be recognised
- determine what information will be provided (see below) what questions are likely to be asked and how such questions will be answered
- explore what locally accessible assistance and support may be offered.

Information for practitioners to discuss with parents includes:

- the facts of circumstances of the child's serious injury or death (what we know and how we know)[12], taking care to set aside opinions or speculation
- referral of parents and family/kin (including siblings) to accessible support services
- what happens next and who will be the main contact person.

[11] Section 83, Children's Guardian Act 2019

[12] Where a child's death or injury is being investigated by NSW police or the Coroner's office, the FSP and DCJ liaise with relevant authorities to establish what information can be shared with family, kin and other persons.

However when a child's serious injury or death is being investigated by NSW police or the Coroner's office, the service provider liaises with relevant authorities to establish what information can be shared with family, kin and other persons.

Practitioners offer to help parents inform family/kin, friends and people important to the child. Additional support and referrals are provided to accessible support services.

Inform and support the carers

As soon as possible, the service provider informs the carers about the serious injury or death and offers them support. Practitioners:

- involve the carers in decision making about the child and provide an opportunity for them to express their views and wishes
- provide the carers with additional direct casework support
- refers the carers, their family and other children in the placement to accessible support services.

8.2 Support staff

A child's serious injury or death is likely to be very difficult for practitioners involved with the child. It is normal for the sadness, worry, grief and anxiety to be felt by a practitioner's team or office.

Senior managers provide responsive and appropriate practitioner support by:

- sharing appropriate information with their teams
- creating opportunities to talk, support and check in with each other
- ensuring staff have access to debriefing and counselling supports.

8.3 Inform the Children's Guardian and Coroner

When a child dies, the service provider immediately:

- informs the NSW Children's Guardian and NSW Coroner[13]
- provides the relevant DCJ principal officer with a copy of all documentation provided to the NSW Children's Guardian and NSW Coroner.

8.4 Make funeral arrangements

Change in legal status

The service provider informs the parents:

- the Children's Court order expired upon the child's death
- (for this reason) they have decision making authority for their child, including consent to organ and tissue donation and funeral planning
- they will be offered support with funeral planning and assistance for funeral

[13] Section 83, Children's Guardian Act 2019

costs if needed.

Arrangements to see a child's body

The service provider:

- coordinates arrangements for the parents and carers to see the child's body through the investigating NSW police command and the NSW Coroner's Court
- offers to provide support during the viewing, for example accompanying the parent or carer (if they wish) or providing transport to the parent.

A child's belongings

The service provider:

- takes an inventory of the child's belongings and record this on the child's file
- plans when and how the child's belongings will be provided to the parents
- consults with the parents about items that can remain with the carer, for example, items the carer wishes to keep for sentimental, family or cultural reasons.

Support and financial assistance

When a child dies, the family may need support and financial assistance to coordinate funeral and burial arrangements for the child. This may be because the child's birth parents cannot be located, or do not have the means to arrange this.

The service provider and the nominated unit collaborate in providing support and financial assistance:

- The service provider obtains relevant quotes for funeral costs.
- The nominated unit and the service provider determine what costs will be met by the provider (within current PSP packages) and what will be met by DCJ.

Provision of financial assistance by the service provider or nominated unit is subject to ordinary approval processes in either agency.

Funeral service and burial

The service provider:

- asks the parents about who they would like to lead planning of the funeral or a memorial event
- seeks permission from the child's parents to invite family/kin and other people important to the child, to the funeral

  For example: Identify and prepare a list of extended family/kin and siblings (even if they have not had contact with the child), the carers and their family (including other children in the placement), school teachers and friends, previous practitioners and carers and cultural or religious elders.

- undertakes an Aboriginal or multicultural consultation[14] to obtain advice regarding cultural practices, burial customs and ceremony (if applicable).

Other information for parents and family/kin

The service provider refers parents or family/kin to:

- the NSW Coroner information about what to expect from the coronial process.
- Service NSW information about applying for the child's death certificate.

When providing referrals, give parents or family/kin the option of making contact with relevant agencies independently, as well as the option of assisting them to make contact. This could involve jointly contacting an agency by phone, reading service information together (from a pamphlet or website) or accompanying the parent or family member to visit the agency.

When providing written or electronic information to parents, consider their level of literacy and whether they have access to the internet.

[14] Refer to Aboriginal Case Management Policy (ACMP) Rules and Practice Guidance for information on Aboriginal Community Controlled Mechanisms.

9.0 Procedure: missing child in OOHC

For the purposes of this policy, a child in OOHC is missing if:

- the child is suspected to have been abducted or there are serious concerns for their immediate safety or
- the child's whereabouts remain unknown for a period of over five days and contact has not been established, or media attention is likely.

A child is ***not*** missing if they are simply away from placement. A child is considered away from placement when they are absent from their placement without carer permission and their carer or casework practitioner is:

- in communication with the child or
- not in communication with the child, if their whereabouts are unknown for a period of no longer than five days.

Refer to the PSP Away from Placement policy.

9.1 Provide information and support (missing child)

The service provider informs the parents about the circumstances that led to their child becoming missing and offers them support.

Practitioners support the carers, parents and family/kin, considering this can be a worrying time for everyone that knows and cares about the child. The impact of any media attention may cause additional worry and distress.

Ideally the provision of support is led by a practitioner with the strongest relationship with the child, carers, parents or relatives/kin. Or it may be a manager or senior practitioner with appropriate skills and expertise.

The practitioner makes sure communication channels are kept open and provides updates promptly. Where appropriate consider referring the parents and family/kin to:

- universal services, including counselling and family support services
- the Families and Friends of Missing Persons Unit, which can provide support to families through counselling, providing information and referral to services.

9.2 Provide information to police

If a child in OOHC is missing and there are serious concerns for their immediate safety the service provider files a NSW Police[15] missing person report including:

- written correspondence signed by a manager with decision making delegation:
  - stating the child's current legal status and the agency that exercises case responsibility (either DCJ or the service provider)
  - attaching a copy of the child's court order

[15] Always report a child as a missing person when their whereabouts are unknown and there are fears for their safety or concern for their welfare https://www.police.nsw.gov.au/can_you_help_us/missing_persons (excludes a child that is Away from Placement)

- the full name, date of birth and address of the missing child
- current photograph (if available), and a description of the child's appearance (weight, height, special features, eyes and hair colour
- details about where and when the child was last seen or heard from and what the child was wearing
- the child's contact details, including mobile phone number, known email addresses and known social media accounts
- medical information, including the child's prescribed medicines or medical needs
- information about the child's disability and how they like to be supported
- the child's history of high-risk behaviours, suicidal risks or other relevant concerns that cause risk to the child
- names and contact details of the child's friends, parents, siblings and family/kin with whom the child has contact (where known)
- the location details of places the child frequents including:
  - places of education
  - places where extracurricular activities take place (for example sporting clubs, youth groups)
  - public places the child likes to visit
- the child's NSW Opal card details (if available)
- contact details of the child's caseworker and casework manager
- the placement where the child is to be taken, when the child is located.

A service provider regularly reviews if they have serious concerns for a child's immediate safety.

9.3 Provide information to DCJ principal officer

If a child in OOHC is missing (excluding a child that is away from placement), the service provider's principal officer provides the applicable DCJ principal officer with relevant information in the form of brief dot points containing the following information:

- an overview of the current situation
- a timeline of actions taken to locate the child and planned actions
- known risks, for example, previous risk taking behaviour
- a brief background
- engagement with other agencies or services.

After five days of sustained attempts to contact and locate the missing child, provide updated dot points to the DCJ principal officer.

Provide another update to the DCJ principal officer after an additional five business days if sustained attempts to contact and locate the child are not successful.

When the child is located, provide the DCJ principal officer with relevant information in the form of brief dot points including:

- the circumstances around the child being located
- where the child was found and where they have been placed now
- a summary of any ongoing safety or risk concerns, and plans for providing ongoing support and safety for the child or young person.

9.4 Try to find the missing child

The service provider always attempts to find a child whose whereabouts are unknown. This may include:

- checking the place the child was last seen and other places the child likes to visit
- contacting the child's family/kin, friends and other significant persons
- looking for any notes or clues that may have been left by the missing child
- conducting a Centrelink request for information (if the child is receiving payments) to request an updated address.

9.5 Arrangements to publish identifying information

The service provider:

- considers publication of a photograph of the missing child or other identifying information in social media and news outlets and discusses this with police
- seeks approval of DCJ Deputy Secretary (through the nominated unit) for publication of photographs of the missing child or identifying information
- provides authority for publication to police once approval is given by DCJ Deputy Secretary
- instructs police they may not identify the child as being in OOHC.

The nominated unit:

- escalates the request for approval to publish photographs of a missing child and other identifying information, to the DCJ Deputy Secretary
- informs the service provider if/when approval to publish a photograph of the missing child or other identifying information has been granted.

Delegation

Approval delegation to publish photographs of a missing child is Category 2 officer and above, for example Deputy Secretary.

9.6 When a child is located

The service provider:

- notifies the child's carer, parents or family/kin to let them know the child is safe
- talks to the child about their experience whilst they were missing and their reason for leaving
- using the MRG, consider if any of the information gathered needs further assessment or reporting to the Child Protection Helpline (for example allegations of physical or sexual harm)
- notifies police the child is located, so the missing person's report can be closed
- provides updated dot points to the DCJ principal officer to advise the child has been located (refer to 9.3).

9.7 Case planning for safety

Building respectful partnerships with the child, their carer, parents and family/kin is the best way to establish safety for a child that was previously missing.

After talking with the child, the service provider:

- considers if there are risks to the child where they have returned to or currently staying, or there are risks for the child at home or in their placement
- considers whether legal action is needed, including if the child's court order needs to be varied or rescinded and discusses this with the nominated unit, which will seek legal advice (if applicable)
- conducts a review of the child's case plan and behaviour support plan to make sure it is still meeting their needs
- works in collaboration with other practitioners who are supporting the child.

10.0 Procedures: reportable allegations

10.1 Understand reportable allegations and convictions

A reportable allegation[16] means an allegation that an employee (including a carer) of a designated agency[17] has engaged in reportable conduct.

A reportable conviction[18] means a conviction or finding of guilt (without conviction), in relation to an offence committed by an employee of a designated agency (in any jurisdiction), involving reportable conduct.

Reportable conduct[19] includes:

- a sexual offence or sexual misconduct
- ill-treatment or neglect of a child, or behaviour that causes significant emotional or psychological harm to a child
- assault of a child
- failure to reduce or remove[20] risk of child becoming victim of child abuse or concealing[21] child abuse.

Reportable allegations do not arise from conduct assessed by a designated agency:

- to be within the reasonable boundaries of their professional duties having regard to relevant professional or ethical codes of conduct or
- to be trivial or negligible, for example in relation to the discipline of children[22].

To decide if conduct is reasonable the designated agency considers:

- the context of reported information and relevant factors such as developmental stage, age, health and characteristics of the child and
- the NSW Reportable Conduct Scheme guidance – Identifying Reportable Allegations fact sheet.

10.2 Assess and investigate

The service provider responds to reportable allegations and convictions in accordance with its internal policies and procedure to:

- using the MRG, consider if any of the information gathered needs reporting to the Child Protection Helpline
- assess the allegations to determine whether or not they meet the definition for reportable conduct

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16 Section 18 of the *NSW Children's Guardian Act 2019*.
17 An employee includes employees and volunteers (including authorised carers) engaged by the designated agency or by contractors engaged by the designated agency under section 16 of the *NSW Children's Guardian Act 2019*.
18 Section 19 of the *NSW Children's Guardian Act 2019*.
19 Section 20 of the *NSW Children's Guardian Act 2019*.
20 An offence under section 43B of the *NSW Crimes Act 1900*.
21 An offence under section 316A of the *NSW Crimes Act 1900*.
22 Section 41, Children's Guardian Act 2019

- conduct investigation into the allegations and
- notify the NSW Children's Guardian

10.3 Inform the Children's Guardian

The service provider:

- notifies[23] all reportable allegations or convictions to NSW Children's Guardian within seven business days of becoming aware of the allegation or conviction (in accordance with the NSW Reportable Conduct Scheme)
- conducts an investigation of all reportable allegations or convictions and provides an interim or final report to NSW Children's Guardian within 30 calendar days
- provides the relevant DCJ principal officer with a copy of documentation provided to the NSW Children's Guardian.

[23] As a *'relevant entity'*, under Schedule 1 of the *NSW Children's Guardian Act 2019*.

11.0 Procedures: notifiable findings

11.1 Understand notifiable findings

The findings of a designated agency become notifiable when they concern a person undertaking child-related work, whether or not an employee, having engaged in types of conduct[24], including types of sexual offence or misconduct, against or in the presence of a child (including grooming) and any serious physical assault of a child[25].

The key differences between notifiable findings and reportable allegations and convictions (above) are:

- reportable allegations and convictions relate to employees, whereas notifiable findings relate to any person engaged in child-related work
- although reportable allegations and notifiable findings relate to specific types of conduct, the former extends to allegations and the latter is limited to findings arising from an assessment.

11.2 Inform the Children's Guardian

The service provider:

- immediately informs the NSW Children's Guardian upon the making of notifiable findings[26] and
- provides the relevant DCJ principal officer with a copy of all documentation provided to the NSW Children's Guardian.

[24] Schedule 1, clause 2, of the Child Protection (Working with Children Act) 2012
[25] This list is an example only and does not constitute a comprehensive list of types of notifiable findings (conduct).
[26] Section 35 of the *Child Protection (Working with Children) Act 2012*.

12.0 Other considerations

12.1 Protocol to reduce contact with the criminal justice system

NSW Ombudsman, in collaboration with DCJ, NSW Police, Legal Aid NSW and a range of service providers, have developed a joint protocol to reduce unnecessary police contact with young people in residential OOHC.

Intensive Therapeutic Care (ITC) and Residential Care providers are required to have procedures in place to adhere to the protocol. The protocol contains advice on appropriate police contact and guidance for developing procedures.

12.2 Joint Child Protection Response (JCPR) Program

DCJ, NSW Police Force and NSW Health cooperate via the Joint Child Protection Response (JCPR) Program to link safety and risk assessment with NSW Police criminal investigation. JCPR also ensures children or young people and their non-offending parents or carers have access to medical examination, counselling and therapeutic services when required.

13.0 Links

Office of Children's Guardian

- NSW Office of Children's Guardian
- Becoming a Child Safe Organisation
- Working with Children Checks
- OCG Fact Sheets

NSW Coroner

- NSW Coroner
- When a death is reported to the Coroner
- Reporting to the Coroner
- Coroner's Court Counselling Service

NSW Ombudsman

- NSW Ombudsman
- Reportable Allegations & Convictions Guide

NSW Justice

- Victims Services Financial Support

Other resources

- NGO Learning Centre – Managing Critical Incidents in OOHC Forum
- Managing Critical Incidents in OOHC Forum Summary Paper
- Supporting Victims of Crime - Factsheet
- Supporting Victims of Crime - Guidelines
- GriefLink
- Australian Centre for Grief & Bereavement
- National Association for Loss and Grief (NSW).

14.0 Appendices

Appendix A: PLA Notification Requirements

Under Definitions, Notification Requirement means:

a. media commentary that has an adverse impact on the service provider in respect of PSP

b. the death of a child

c. an incident or medical condition and/or serious or life threatening injury, affecting a child

d. a threat of serious harm or injury made to the child, the authorised carer or member of the carer's family, including threats to assault or kill

e. a report that a child under 15 years of age is missing from an approved placement

f. an allegation that a child may have committed a serious criminal offence, including malicious damage to property (authorised carer's or others) over $10,000

g. a child is involved in proceedings before any court or needs legal assistance such as, for example, in criminal proceedings

h. a request to temporarily or permanently allow a child to reside in another jurisdiction

i. a child intends or is planning to get married

j. a child becomes pregnant and/or requests a termination of pregnancy

k. an application is made on behalf of a child for a passport

l. a child needs major medical or dental surgery

m. a placement change occurs

n. a breakdown in interagency negotiations.

Appendix B: PLA Default Events

Under Definitions, Default Event means:

a. any of the events set out at clause 19.1 of the Funding Deed

b. the service provider fails to perform any of its obligations under this Agreement to the satisfaction of DCJ

c. the service provider is in material breach of any of its obligations under this Agreement

d. the service provider fails to notify DCJ of a Notification Requirement 3 or more times in any quarter

e. the service provider changes the composition of its board and/or members of its senior management which may be a Change in Control and:

i. does not notify DCJ of the Change in Control within 10 Business Days after becoming aware of the Change in Control or

ii. if such notice is given, DCJ reasonably believes the Change in Control will have a material adverse impact on the ability of the service provider to deliver the services

f. the service provider, a subcontractor, an employee or agent of the provider or a subcontractor engages in fraud, collusion or dishonest conduct in performing their obligations under this Agreement

g. a representation or warranty given by the service provider is found to be materially incorrect or misleading, or a financial audit report discloses fraudulent, false, misleading or negligent reporting by the provider in respect of any financial statements or invoices or other books or records of the provider

h. the service provider's Office of the Children's Guardian accreditation is suspended or cancelled

i. DCJ records three or more Referral Refusals in respect of the service provider in any 12-month period during the Term

j. any other event described as a Default Event in this Agreement.

Appendix C: DCJ principal officer contacts

Contacting a DCJ district principal officer in relation to a critical event occurs in writing, through the DCJ CFDU mailbox.

DCJ CFDU Mailboxes		
CFDU	Covering DCJ Community Service Centres	Mailbox
Metro Central CFDU	Burwood, Central Sydney, Chatswood, Eastern Sydney, Lakemba, Pennant Hills, St George, Sutherland	CFDU.metrocentral@facs.nsw.gov.au
Metro West CFDU	Auburn, Blacktown, Blue Mountains, Hawkesbury, Lithgow, Mount Druitt, Parramatta, Penrith, St Marys	CFDUWS&NBM@facs.nsw.gov.au
Metro South West CFDU	Bankstown, Bowral, Macarthur, Fairfield, Ingleburn, Liverpool	CFDU.SouthWesternSydney@facs.nsw.gov.au
Northern NSW CFDU	Ballina, Clarence Valley, Lismore, Tweed Heads	NNSW.CFDU@facs.nsw.gov.au

DCJ CFDU Mailboxes		
CFDU	Covering DCJ Community Service Centres	Mailbox
Mid North Coast CFDU	Coffs Harbour, Kempsey, Port Macquarie, Taree	CFDU.midnorthcoast@facs.nsw.gov.au
New England CFDU	Armidale, Glen Innes, Inverell, Moree, Muswellbrook, Narrabri, Tamworth	NewEngland.CFDU@facs.nsw.gov.au
Hunter Central Coast CFDU	Cessnock, Charlestown, Edgeworth, Gosford, Lakes, Maitland, Mayfield, Peninsula, Raymond Terrace, Wyong	Admin.HCCCFDU@facs.nsw.gov.au
Illawarra Shoalhaven CFDU	Nowra, Shellharbour, Ulladulla, Wollongong	IllawarraShoalhaven.CFDU@facs.nsw.gov.au
Southern NSW CFDU	Batemans Bay, Bega, Cooma, Goulburn, Queanbeyan, Yass	SouthernNSW.CFDU@facs.nsw.gov.au
Western NSW CFDU	Bathurst, Bourke, Brewarrina, Cobar, Condobolin, Coonabarabran, Coonamble, Cowra, Dubbo, Mudgee, Orange, Parkes, Walgett	WesternNSW.CFDU@facs.nsw.gov.au
Murrumbidgee Far West CFDU	Albury, Broken Hill, Cootamundra, Dareton, Deniliquin, Griffith, Leeton, Tumut, Wagga Wagga, Wilcannia	CFDUMurrumbidgeeFarWest@facs.nsw.gov.au
Central Access Unit (ITC and Residential Care)	State-wide	CentralAccessUnit@facs.nsw.gov.au
Metro Intensive Support Services (ISS)	State-wide	CSStateWideServices.ISS@facs.nsw.gov.au

Appendix D: DCJ contract manager contacts

Contacting a DCJ contract manager in relation to a notification requirement or default event occurs in writing, through their local district Commissioning and Planning director mailbox.

DCJ Commissioning and Planning Mailboxes		
Commissioning and Planning Team	Covering DCJ Community Service Centres	Mailbox
Sydney, South-Eastern Sydney and Northern Sydney team	Burwood, Central Sydney, Chatswood, Eastern Sydney, Lakemba, Pennant Hills, St George, Sutherland	ContractingSSESNSD@facs.nsw.gov.au
Western Sydney Nepean Blue Mountains Team	Auburn, Blacktown, Mount Druitt, Parramatta	DirectorCommissioning&PlanningWSNBM@facs.nsw.gov.au and Contracting.WesternSydney@facs.nsw.gov.au
Western Sydney Nepean Blue Mountains Team	Blue Mountains, Hawkesbury, Lithgow, Penrith, St Marys	DirectorCommissioning&PlanningWSNBM@facs.nsw.gov.au and Contracting.NepeanBlueMountain@facs.nsw.gov.au
South West Sydney team	Bankstown, Bowral, Macarthur, Fairfield, Ingleburn, Liverpool	Contracting.SouthWesternSydney@facs.nsw.gov.au Commissioning&PlanningSWS@facs.nsw.gov.au
Northern NSW team	Ballina, Clarence Valley, Lismore, Tweed Heads	Contracting.NorthernNSW@facs.nsw.gov.au
Mid North Coast team	Coffs Harbour, Kempsey, Port Macquarie, Taree	Contracting.MidNorthCoast@facs.nsw.gov.au
New England team	Armidale, Glen Innes, Inverell, Moree, Narrabri, Tamworth	Contracting.NewEngland@facs.nsw.gov.au
Hunter Central Coast team	Charlestown, Cessnock, Edgeworth, Gosford, Maitland, Mayfield, Peninsula, Raymond Terrace, Wyong, Muswellbrook	DirectorCommissioningAndPlanningH&CC@facs.nsw.gov.au

DCJ Commissioning and Planning Mailboxes		
Commissioning and Planning Team	Covering DCJ Community Service Centres	Mailbox
Illawarra Shoalhaven team	Nowra, Shellharbour, Ulladulla, Wollongong	Contracting.IllawarraShoalhaven@facs.nsw.gov.au
Southern NSW team	Batemans Bay, Bega, Cooma, Goulburn, Queanbeyan, Yass	Contracting.SouthernNSW@facs.nsw.gov.au
Western NSW team	Bathurst, Bourke, Brewarrina, Cobar, Condobolin, Coonabarabran, Coonamble, Cowra, Dubbo, Mudgee, Orange, Parkes, Walgett	DirectorOperationsMFWWNSW@facs.nsw.gov.au
Murrumbidgee team	Albury, Cootamundra, Deniliquin, Griffith, Leeton, Tumut, Wagga Wagga	DirectorOperationsMFWWNSW@facs.nsw.gov.au
Far West team	Broken Hill, Dareton, Wilcannia	DirectorOperationsMFWWNSW@facs.nsw.gov.au

Appendix E: DCJ Office of Senior Practitioner

DCJ Office of Senior Practitioner contacts		
OSP team	Mailbox	Phone number
Serious Case Review	SeriousCaseReview@facs.nsw.gov.au	02 9716 2525
Reportable Conduct	ReportableConductCS@facs.nsw.gov.au	02 9716 2149